

# INFORMATION LETTER

Not for  
Publication

## NATIONAL CANNERS ASSOCIATION

For Members  
Only

No. 760

Washington, D. C.

September 23, 1939

### SPECIAL SESSION CONVENES

#### Congress Hears President's Message on Neutrality and Begins Consideration on Monday

Congress convened Thursday, September 21, in extraordinary session and heard President Roosevelt deliver in person a message in which he requested the repeal of the embargo provisions of the present Neutrality Act. The President told Congress that he could see no valid reason for the consideration of other legislation at this extraordinary session.

Mr. Roosevelt described the problem before Congress with the statement that "repeal of the embargo and a return to international law are the crux of this issue." "When and if repeal of the embargo is accomplished," the President said, "certain other phases of policy reinforcing American safety should be considered."

These other matters of policy, as listed by the President, are: (1) restricting American flag ships from war zones; (2) preventing American citizens from traveling on belligerent vessels or in danger areas; (3) requiring foreign buyers to take transfer of title in this country of commodities purchased by belligerents; and (4) preventing war credits to belligerents.

Foreseeing an increase in industrial activity with the repeal of the embargo, the President warned that "if abnormal profits appear in our midst even in time of peace, as a result of this increase of industry, I feel certain that the subject will be adequately dealt with at the coming regular session of the Congress."

It will be recalled that the Bloom bill, which will form the basis for neutrality legislation at this special session, was passed by the House last June and is now pending before the Senate Committee on Foreign Relations.

At the conclusion of the President's address, the House and Senate recessed until Monday. The Senate Committee on Foreign Relations scheduled its first meeting on the subject of neutrality legislation and the President's message for Monday, September 25.

### AGRICULTURAL ADVISORY COUNCIL MEETS

#### Conclusions Reached on Farm Prices, Supplies, and Organization for Emergency Action

The Agricultural Advisory Committee, appointed by the Secretary of Agriculture and composed of representatives of agricultural producers, agricultural farm papers, manufacturers, distributors, labor and the public, held a two-day session in Washington on September 20 and 21, at which three unanimous conclusions were agreed upon. In brief, the conclusions were:

1. Farm income, and farm prices, in all but very few commodities, are still considerably below "parity", and must be raised. Parity, as used in our deliberations, means the raising

of the farmer's income to a level where he can use the products of his farm in fair exchange for the products of industrial labor, on the basis of existing labor wage rates. "Industrial labor" means the present-day cost of industrial production, including naturally all workers, so-called "white-collar" as well as factory. Another way of expressing it is "farm prices in terms of city goods prices."

2. There are abundant supplies of all types of basic food products in the United States at present, with no signs of serious reductions as a result of either foreign demand, or crop or other situations here. Hence there are no signs of any serious "shortages" such as might justify greatly increased prices. Nevertheless, prices are expected to stiffen, and to the extent that these prices are reflected in better returns to primary producers (farmers), the over-all national economy will benefit, and the demand for industrial products will increase, with consequent benefits to processors and to labor. It is believed that greater volume, rather than higher

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### FOREIGN FOOD CONTROL

#### United Kingdom Arranges to Purchase Surplus of Australia's Primary Products

Additional information was received in Washington this week on foodstuffs control measures instituted by foreign countries, both belligerents and neutrals. Arrangements have been made for the purchase by the United Kingdom of all surplus over Australian requirements of most primary products, including canned and dried fruits, wool, meats, butter, etc.

To make unnecessary the importation of some food products, the British government has removed restrictions on domestic production of all agricultural products, except hops, and farmers are urged to sow as much winter wheat as possible and to make large increases in acreages of grain and potatoes in the spring. Rigid control of all agricultural operations will be exercised by the government.

The Food Ministry now is formulating a program to buy feeding supplies for the remainder of the season. Prices of feed in the United States, however, not only obstruct purchases here, but the American agricultural attache at London reports that "the policy in England is veering strongly toward buying from weak currency countries and sterling areas where possible, especially since fixing prices in England at prewar levels means the British government probably would be forced to absorb large losses on many imports owing to the depreciation of sterling."

Measures taken by governments of other countries relative to foodstuffs control, as reported to the Department of Commerce, are briefly summarized below:

*Australia.*—Some form of restriction of imports may be anticipated.

*France.*—Payment of import license taxes on meats suspended until September 30.

*Denmark.*—The bread-grain harvest has been requisitioned by the government for food purposes, and to prevent livestock feeding of this grain.

*Cuba.*—Maximum retail prices decreed for 28 foodstuffs (no canned foods).

*Finland.*—All imports made subject to license (goods arriving before October 1, 1939, exempt).

*Lithuania.*—All imports and exports subjected to permit control.

*Italy.*—No meat may be sold on Thursdays and Fridays and slaughter of calves weighing less than 100 kilograms (about 202 pounds) is prohibited.

### Canada Imposes Exchange Control

The Canadian Government on September 15 authorized far-reaching executive control over imports, exports, and all transactions in foreign exchange. All importations of goods into Canada, and exportations from that country, now require an official license. All transfers of funds, securities, etc., require an exchange permit from the agencies authorized by the Foreign Exchange Control Board.

For the present, it is understood, no restrictions are actually being applied upon the normal flow of trading between Canada and the United States. Applications by firms in Canada desiring to import foreign merchandise are presented to the collectors of customs and excise at the respective ports of entry, and licenses are being granted freely and promptly to regular importers from the United States.

### STANDARD OF IDENTITY FOR PEARS

#### Suggested Findings and Order Relative to Sirups Maintain Sugar Labeling Distinctions

The report containing suggested findings of fact and suggested order in regard to identity of canned pears, filed with the Secretary of Agriculture by John McDill Fox, presiding officer of the hearings held in April and May, maintains the labeling distinctions between cane and beet sugars proposed by Mr. Fox in his report on the suggested standard of identity for canned peaches. The suggested conclusion in the form of a regulation, appearing in the present report on canned pears, would require labeling for sirups identical to those proposed for peaches, except that the density limits differ for various grades of sirup.

The Brix readings to identify the different sirup densities are as follows:

Light sirup—not less than 10° but less than 20°.

Medium sirup—not less than 20° but less than 30°.

Heavy sirup—not less than 30° but less than 40°.

Extra heavy sirup—not less than 40°.

Interested persons who desire to file objections may file them in writing with the Hearing Clerk, Department of Agriculture, within ten days after the receipt of the *Federal Register* of September 19, in which the report was published. This should include a brief statement concerning each of the objections, referring, where relevant, to the pages of the transcript of evidence.

Public hearings on the definition and standard of identity proposal for canned pears were held on April 15, May 1, and May 2. It was ordered at that time that all evidence with reference to the sucrose-dextrose issue, introduced in evidence at the hearings on the definition and standard of identity proposal for canned peaches, be incorporated into the record for canned pears.

The report consists of (1) a general statement relative to the public hearings held and testimony introduced; (2) the suggested findings of the presiding officer based on the evidence in the record; (3) a suggested conclusion in the form of a regulation; and (4) notice of time within which to file objections.

The suggested findings and suggested conclusion for canned pears are reproduced below, with the exception of those findings referring to the label description of sirups that are identical with the suggested findings for canned peaches.

#### Definition and Standard of Identity

##### SUGGESTED FINDINGS

1. Canned pears are prepared from mature pears. (R. pp. 21, 31, 44.)

2. Except in the case of whole pears, canned pears are cored. (R. pp. 21, 31, 41, 45.)

3. Such pears are prepared in one of the following forms of units: unpeeled whole, unpeeled halves, peeled whole, peeled halves, peeled quarters, peeled slices, peeled dice, and peeled mixed pieces of irregular sizes and shapes. (R. pp. 21, 31, 44, 45, 70-71, 75, 80-81, 84, 86-88.) Such forms of units are never mixed in canning. (R. pp. 21, 44.) Canned pears are not prepared in any other forms of units. (R. pp. 22, 44.) Pears of each such form of units are an optional pear ingredient. (R. pp. 22, 31, 44, 45, 75, 84.) Each such form of units of the optional ingredient has its own distinctive consumer uses. (R. pp. 22, 44.)

4. Canned pears contain a suitable liquid packing medium. (R. pp. 23, 31-32, 44, 45.) It may be the natural juice of the pear obtained by precooking the pears so that such juice exudes, or it may be an added liquid. (R. pp. 23-24, 31-32, 44.)

5. The natural juice of the pear is a suitable liquid packing medium. (R. p. 71.)

6. Water is a suitable liquid packing medium. (R. pp. 21, 31, 44.)

7. A water solution of sugar is a suitable liquid packing medium. (R. pp. 24, 31-32, 44.)

The suggested findings for canned pears relative to sugars used for sirups in packing pears are identical to those for canned peaches, with the single exception, already pointed out, that Brix readings to identify the different sirup densities are not the same. References following each paragraph in the findings also differ. To save republishing these identical findings, reference is made to paragraphs appearing in the suggested findings on canned peaches published in the September 7 issue of the *Federal Register* and reproduced in the INFORMATION LETTER for September 9:

In the suggested findings for canned pears, paragraphs 8 to 35 are identical, with the exceptions noted, to paragraphs 12 to 39 appearing in the suggested findings for canned peaches.

The paragraph in the findings on canned pears relating to Brix readings to identify the different sirup densities is as follows:

32. When such sirups are prepared from cane or beet sugar (sucrose) or cane and beet sugar (sucrose), they have, respectively, the following readings on the Brix hydrometer: not less than 10° but less than 20°, not less than 20° but less than 30°, not less than 30° but less than 40°, and not less than 40°, but when such sirups of equivalent sweetness are prepared from a mixture of cane or beet sugar (sucrose) or cane and beet sugar (sucrose) and refined corn sugar (dextrose), they do not have the above readings on the Brix hydrometer because of the difference in sweetness between refined corn sugar (dextrose) and cane or beet sugar (sucrose). However, the Brix reading of a sucrose sirup equivalent in sweetness to that of any such mixture is obtained by adding the percent by weight of cane or beet sugar (sucrose), or both, in such mixture to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution. Such calculated Brix readings (sucrose equivalents) are identical with the limits above set forth. (R. pp. 73, 74, 76, 84.)

35. Canned pears may or may not be seasoned. (R. pp. 28, 32, 44, 45.)

36. Spice is a suitable seasoning agent. (R. pp. 29, 32, 44, 75, 76, 84.)

37. Flavoring is a suitable seasoning agent. (R. pp. 29, 32, 44, 76, 84.)

38. A vinegar is a suitable seasoning agent. (R. pp. 29, 32, 44, 76, 84.)

39. Such seasoning agents are used singly or in combination. (R. pp. 29, 44, 52, 53.)

40. It is essential that canned pears be sealed in a container. (R. pp. 30, 44, 45.)

41. It is essential that canned pears be processed by heating after sealing to prevent spoilage and in order to preserve their identity. (R. pp. 30, 44, 45.) Pears which are baked before canning are not the food commonly known as canned pears. Such baking changes their identity inasmuch as it produces a different color, a different texture, and a different flavor. The product consists of a combination of pears and brown sugar, whereas the food commonly known as canned pears is not prepared with dry sugar. (R. pp. 89-96.)

42. Honesty and fair dealing in the interest of the consumer requires that the optional pear ingredient, the optional liquid packing medium, and the optional seasoning ingredients be declared on the label. (R. pp. 30-31, 54-5, 75-77, 82-85, 84); (Identity of Peaches, R. pp. 103, 104, 140, 191, 201, 210, 220, 238, 239, 259, 337, 338, 339, 349, 350, 351, 360, 367, 369, 370, 371, 398, 399, 401, 406, 415, 417, 419, 420, 422, 424, 427, 433, 436, 437, 438, 442, 471, 484, 485, 492); (C. R., p. 59); (C. R., Other Interested Parties' Exhibit No. 8A).

43. The common or usual name of peeled canned pears is the name of the varietal group and form of unit, without qualifying words, except that "slices" and "sliced" are synonymous and "dice" and "diced" are synonymous. (R. p. 37.)

44. The common or usual name of unpeeled canned pears is the name of the varietal group and the name of the form of unit, qualified by the term "unpeeled." (R. pp. 71, 84.)

45. The common or usual name of water is water. (R. pp. 24, 31, 44.)

46. The common or usual name of the natural juice of the pear is pear juice. (R. pp. 71, 73, 76.)

47. The common or usual name of sucrose is sugar; and the common or usual name of dextrose is refined corn sugar (dextrose). (Identity of Peaches, R. pp. 53, 61, 177, 215,

351, 367, 372, 373, 397, 398, 404, 416, 424, 461, 465, 510); (C. R., pp. 48, 49, 70); (C. R., Other Interested Parties' Exhibits Nos. 4, 5, and 8a).

48. The common or usual name of spice used as a seasoning is spice. (R. pp. 30, 75, 76, 81, 84.)

49. The common or usual name of flavoring used as a seasoning is flavoring. (R. pp. 30, 76, 84.)

50. The common or usual name of a vinegar used as a seasoning is vinegar. (R. pp. 30, 76, 84.)

51. Honesty and fair dealing in the interest of the consumer requires that when spices, flavoring, or vinegar are used that the label bear the words "Spiced," or "With Added Spice," or "Spice Added"; "With Added Flavoring," or "Flavoring Added"; "With Added Vinegar," or "Vinegar Added," as the case may be; but if two or more of such optional ingredients are present, such words may be combined as, for example, "With Added Spice, Flavoring and Vinegar." In lieu of the words "Spice" or "Spiced" and "Flavoring," the common or usual name of the spice or flavoring may be used. (R. pp. 32, 33, 44, 45, 53, 54.)

52. Honesty and fair dealing in the interest of the consumer requires that wherever the name "pears" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the names of the optional ingredients present shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the pears may so intervene. (R. pp. 54, 77, 84.)

#### SUGGESTED CONCLUSION IN THE FORM OF A REGULATION

Upon the basis of the foregoing findings of fact, the following reasonable definition and standard of identity for the food commonly known as canned pears is hereby suggested to be promulgated as a regulation:

##### § 27.020 Canned pears—Identity; label statement of optional ingredients.

(a) Canned pears are the food prepared from mature pears. Such pears, except in the case of whole pears, are cored and are in one of the following forms of units: unpeeled whole; unpeeled halves; peeled whole; peeled halves; peeled quarters; peeled slices; peeled dice; peeled mixed pieces of irregular sizes and shapes. Pears in each such form of units are an optional pear ingredient. To one such ingredient is added one of the optional ingredients:

(9) A water solution of cane sugar (sucrose), of not less than 10° Brix but less than 20° Brix;

(10) A water solution of beet sugar (sucrose), of not less than 10° Brix but less than 20° Brix;

(11) A water solution of cane and beet sugar (sucrose), of not less than 10° Brix but less than 20° Brix;

(12) A water solution of cane sugar (sucrose), of not less than 20° Brix but less than 30° Brix;

(13) A water solution of beet sugar (sucrose), of not less than 20° Brix but less than 30° Brix;

(14) A water solution of cane and beet sugar (sucrose), of not less than 20° Brix but less than 30° Brix;

(15) A water solution of cane sugar (sucrose), of not less than 30° Brix but less than 40° Brix;

(16) A water solution of beet sugar (sucrose), of not less than 30° Brix but less than 40° Brix;

(17) A water solution of cane and beet sugar (sucrose), of not less than 30° Brix but less than 40° Brix;

(18) A water solution of can sugar (sucrose), of not less than 40° Brix;

(19) A water solution of beet sugar (sucrose), of not less than 40° Brix;

(20) A water solution of cane and beet sugar (sucrose), of not less than 40° Brix;

(21) A water solution of cane sugar (sucrose) and refined corn sugar (dextrose) having a cane sugar (sucrose) equivalent of not less than 10° but less than 20° Brix. Such cane sugar (sucrose) equivalent is calculated by adding the percent by weight of cane sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(22) A water solution of beet sugar (sucrose) and refined corn sugar (dextrose) having a beet sugar (sucrose) equivalent of not less than 10° but less than 20° Brix. Such beet sugar (sucrose) equivalent is calculated by adding the percent by weight of beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(23) A water solution of cane and beet sugar (sucrose) and refined corn sugar (dextrose) having a cane and beet sugar (sucrose) equivalent of not less than 10° but less than 20° Brix. Such cane and beet sugar (sucrose) equivalent is calculated by adding the percent by weight of cane and beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(24) A water solution of cane sugar (sucrose) and refined corn sugar (dextrose) having a cane sugar (sucrose) equivalent of not less than 20° but less than 30° Brix. Such cane sugar (sucrose) equivalent is calculated by adding the percent by weight of cane sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(25) A water solution of beet sugar (sucrose) and refined corn sugar (dextrose) having a beet sugar (sucrose) equivalent of not less than 20° but less than 30° Brix. Such beet sugar (sucrose) equivalent is calculated by adding the percent by weight of beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(26) A water solution of cane and beet sugar (sucrose) and refined corn sugar (dextrose) having a cane and beet sugar (sucrose) equivalent of not less than 20° but less than 30° Brix. Such cane and beet sugar (sucrose) equivalent is calculated by adding the percent by weight of cane and beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(27) A water solution of cane sugar (sucrose) and refined corn sugar (dextrose) having a cane sugar (sucrose) equivalent of not less than 30° but less than 40° Brix. Such cane sugar (sucrose) equivalent is calculated by adding the percent by weight of cane sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(28) A water solution of beet sugar (sucrose) and refined corn sugar (dextrose) having a beet sugar (sucrose) equivalent of not less than 30° but less than 40° Brix. Such beet sugar (sucrose) equivalent is calculated by adding the percent by weight of beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(29) A water solution of cane and beet sugar (sucrose) and refined corn sugar (dextrose) having a cane and beet sugar (sucrose) equivalent of not less than 30° but less than 40° Brix. Such cane and beet sugar (sucrose) equivalent is calculated by adding the percent by weight of cane and beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution.

(30) A water solution of cane sugar (sucrose) and refined

corn sugar (dextrose) having a cane sugar (sucrose) equivalent of not less than 40° Brix. Such cane sugar (sucrose) equivalent is calculated by adding the percent by weight of cane sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(31) A water solution of beet sugar (sucrose) and refined corn sugar (dextrose) having a beet sugar (sucrose) equivalent of not less than 40° Brix. Such beet sugar (sucrose) equivalent is calculated by adding the percent by weight of beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(32) A water solution of cane and beet sugar (sucrose) and refined corn sugar (dextrose) having a cane and beet sugar (sucrose) equivalent of not less than 40° Brix. Such cane and beet sugar (sucrose) equivalent is calculated by adding the percent by weight of cane and beet sugar (sucrose) in such solution to two-thirds of the percent by weight of refined corn sugar (dextrose) in such solution;

(33) Pear juice;

(34) Water

The food may be seasoned with one or more of the optional ingredients:

(35) Spice

(36) Flavoring:

(37) A vinegar.

The food is sealed in a container and so processed by heat as to prevent spoilage. The liquid of the finished canned pears is not more than 35° Brix.

(b) The label shall bear the words "Whole," or "Unpeeled Whole"; "Halves," or "Unpeeled Halves"; "Quarters"; "Slices," or "Sliced"; "Dice," or "Diced"; "Mixed Pieces of Irregular Sizes and Shapes"; naming the optional pear ingredient present. The label shall also bear the words "In Light Cane Sugar (Sucrose) Sirup," "In Light Beet Sugar (Sucrose) Sirup," "In Light Cane Sugar and Beet Sugar (Sucrose) Sirup," "In Light Cane Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Light Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Light Cane and Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Medium Cane Sugar (Sucrose) Sirup," "In Medium Beet Sugar (Sucrose) Sirup," "In Medium Cane and Beet Sugar (Sucrose) Sirup," "In Medium Cane Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Medium Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Medium Cane and Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Heavy Cane Sugar (Sucrose) Sirup," "In Heavy Beet Sugar (Sucrose) Sirup," "In Heavy Cane and Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Heavy Cane Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Heavy Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Heavy Cane and Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Extra Heavy Cane Sugar (Sucrose) Sirup," "In Extra Heavy Beet Sugar (Sucrose) Sirup," "In Extra Heavy Cane and Beet Sugar (Sucrose) Sirup," "In Extra Heavy Cane Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Extra Heavy Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Extra Heavy Cane and Beet Sugar (Sucrose) and Refined Corn Sugar (Dextrose) Sirup," "In Pear Juice," or "In Water," showing respectively the presence of optional ingredients (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), or (34), as the case may be. If optional ingredient (35), (36), or (37) is present, the label shall bear the words "Spiced," or "With Added Spice," or "Spice Added"; "With Added Flavoring," or "Flavoring Added";

"With Added Vinegar," or "Vinegar Added," as the case may be; but if two or more of such optional ingredients are present, such words may be combined as, for example, "With Added Spice, Flavoring and Vinegar." In lieu of the words "Spice" or "Spiced" and "Flavoring," the common or usual name of the spice or flavoring may be used. Wherever the name "Pears" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the pears may so intervene.

#### AGRICULTURAL ADVISORY COUNCIL MEETS

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margins as such, should be looked for in industry and in trade for maintaining fair profits, which everyone agrees should be maintained.

3. It is of the utmost importance to the food industry of the nation, from farmer through processor and down to the last and smallest distributor, that any emergency action which has to be taken by the government should be taken by practical agriculture and food industry men whose experience fits them to "talk the language of the food industry." All the representatives assembled agreed that all food industry activity during the present European situation, and in any and all developments that may lie ahead, should be initiated by the Department of Agriculture, and through the Department and the cooperating organizations and affiliated trades and industries, should be left in the hands of practical, experienced food men.

Previous to the meeting of this Advisory Council, there was a meeting of the Grocery Trade Conference Committee, composed largely of distributors, which submitted various recommendations for consideration by the Advisory Council.

#### STANDARDS FOR CANNED PEACHES

##### Presiding Officer Files Findings and Conclusions on Fill of Container and Quality

The further reports of John McDill Fox, presiding officer of public hearings held in April to receive evidence upon the basis of which the Secretary of Agriculture could promulgate regulations under the Federal Food, Drug, and Cosmetic Act relative to standards for canned peaches, were published in the September 15 issue of the *Federal Register*. These reports concern (1) suggested findings of fact, and conclusions and order in regard to fill of container of canned peaches; and (2) suggested findings of fact, and conclusions and order in regard to a reasonable standard of quality of canned peaches.

The report containing proposed definitions and suggested standards of identity for canned peaches was published in the September 7 issue of the *Federal Register* and reproduced in the INFORMATION LETTER for September 9.

The hearings on canned peaches opened April 10, 1939, in Washington. The hearing to receive evidence on a standard of fill of container and on the form and manner of label statement of substandard fill of container, was held on April 14. On April 13 was held the hearing for the purpose of receiving evidence to fix and establish a standard of quality

and to specify the form and manner of label statement of substandard quality.

The notices of time in which to file objections to the two reports on fill of container and standard of quality, states in each case that those interested persons who desire to file objections may, within ten days after the receipt of the *Federal Register* containing the reports, submit their objections in writing to the Hearing Clerk, Office of the Solicitor, Department of Agriculture, Washington, D. C. At the same time, a brief statement concerning each of the objections, referring to the relevant pages of the transcript of evidence, should be filed.

The present reports consist in each case of (1) a general statement relative to the public hearings held and testimony introduced; (2) the suggested findings of the presiding officer based on the evidence in the record; (3) a suggested conclusion in the form of a regulation; and (4) notice of time within which to file objections.

The suggested findings and suggested conclusions contained in the two reports are reproduced in this issue of the LETTER. Part of the general statement concerning proposed standard of quality also is published in this issue. Immediately following are the suggested findings of fact and suggested conclusion in the form of a regulation relative to fill of container:

##### Standard of Fill of Container

###### SUGGESTED FINDINGS

1. The quantity of the optional peach ingredient which can be placed in a container varies, depending upon the method of packing and upon the shape, size, degree of maturity, and specific gravity of the units of the optional peach ingredient (R. pp. 29, 48, 49).

2. With the exception of comparatively few slack filled cans, canned peaches as they appear on the market at the present time contain the maximum quantity of the optional peach ingredient which, using reasonably good factory practice, can be placed and sealed in each can and processed by heat to prevent spoilage, without crushing or breaking the peach units (R. pp. 30, 32, 49, 50).

3. The maximum quantity of the optional peach ingredient varies, depending on the size of the container, the method of packing, the form, size, firmness of units, the necessity for having sufficient liquid to insure proper processing, and other factors (R. p. 30).

4. The can should contain the greatest number of peach units the canner can place therein and properly seal and process (R. pp. 30, 31, 32, 49, 50).

5. Knowing the form, shape, size, degree of maturity and comparative specific gravity of the peach units in any lot being canned, canners know the greatest amount of peach units which can be placed in a can of any given size without damage, and canners employ inspectors to insure proper filling by packers (R. pp. 30, 31).

6. None of the various methods which have been studied for objective measurements of fill have shown any uniform correlation between the quantity of peach units put in and the quantity of peach units cut out. Assurance to the consumer of a can full of peaches can be obtained only by a requirement as to the quantity put in the container (R. pp. 27-29, 31, 32, 35, 40, 41, 45, 50, 58, 60, 62, 64, 81, 82, 90, 91, 92, 95, 96, 98, 102, 110, 112) (Government's Exhibits Nos. 2 and 3) (Other Interested Parties' Exhibits Nos. 1 and 2).

7. It is necessary and desirable in the interest of the consumer that canned peaches falling below a standard of fill of container bear on the label a simple and understandable

statement of that fact (R. pp. 32, 33). "Below Standard in Fill" is such a statement (R. pp. 32, 33).

8. If canned peaches fall below a standard of fill of container, it is necessary and desirable in the interest of the consumer that the label bear the statement "Below Standard in Fill," printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement should be in 12-point type; if such quantity is 1 pound or more, the statement should be in 14-point type. Such statement should be enclosed within lines not less than 6 points in width, forming a rectangle; but if the peaches also fall below the standard of quality for canned peaches and bear the label statement of substandard quality specified in the standard of quality for canned peaches, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, should be on a strongly contrasting, uniform background, and should be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase (R. p. 33).

9. The substandard statement now required by the regulations issued pursuant to the McNary-Mapes Amendment is "Below U. S. Standard" followed by "Slack Fill," in the case of excess head space; and by the statement "Contains Excessive Added Liquid," in the case of excessive packing medium (R. pp. 33, 34). These statements are required to appear in substantially the same form as herein proposed (R. p. 34).

10. The phrase "Below Standard" as proposed, differs from the present requirement "Below U. S. Standard." The term "U. S." on a food product has been found to imply to consumers that the product has been packed under the supervision of the U. S. Government. The phrase "In Fill," as proposed, differs from the present requirement of "Slack Fill" or "Contains Excessive Added Liquid." The standard herein proposed is based on a can filled to its maximum capacity with fruit. If adopted and met, the headspace will not be excessive, nor will there be excessive liquid present. If not met, the expression "Below Standard in Fill" is simpler and more understandable in describing a product which fails to meet a standard based on the amount of peaches present rather than on the amount of liquid and peaches or the quantity of liquid present (R. pp. 34, 35).

#### SUGGESTED CONCLUSION IN THE FORM OF A REGULATION

Upon the basis of the foregoing findings of fact, the following reasonable standard of fill of container and the form and manner of label statement of substandard fill of container for the food commonly known as canned peaches is hereby suggested to be promulgated as a regulation:

#### § 27.002 Canned peaches—Fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned peaches is the maximum quantity of the optional peach ingredient which can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient.

(b) If canned peaches fall below the standard of fill of container prescribed in subsection (a), the label shall bear the statement "Below Standard in Fill," printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement shall be in 12-point type; if such quantity is 1 pound or more, the statement shall be in 14-point type. Such statement shall be enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in Section 27.001 (d) is also used, both statements (one following the other)

may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, shall be on a strongly contrasting, uniform background, and shall be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

#### Standard of Quality

The first five paragraphs of the general statement relative to the proposed standard of quality of canned peaches deals with the time and purpose of the hearing held. The remaining paragraphs consist of a summary of certain testimony introduced at the hearing, and are reproduced below together with the suggested findings and suggested conclusion in the form of a regulation:

#### GENERAL STATEMENT

6. There was controversy with respect to (a) the amount of adhering peel in peeled canned peaches, (b) the degree to which a peach or unit of a peach may be trimmed, (c) the number of peach units in a container which are crushed or broken, (d) label statements.

7. Testimony was introduced tracing the development of standards with reference to the McNary-Mapes Amendment to the Food and Drugs Act of 1906, passed in 1930, and the formulation of a standard of quality under that amendment.

Various factors which go to make up a quality standard were considered, together with objective measurements for determining such factors. These factors and objective measurements were made up after conferences with canners, with the trade, with consumers and with expert graders in all sections of the country. The factors which enter into the quality of canned peaches differ somewhat, depending upon the form of the unit of the peach ingredient. Tenderness is a factor. The size of the unit is a factor if the units are halves or quarters. Uniformity of size of unit is a factor in the cases of whole peaches, halves and quarters. Absence of peel is a factor in peeled peaches. Freedom from blemishes is a factor. The contour of the units is a factor in the cases of whole peaches, halves and quarters, and freedom from crushed or broken units is a factor.

An objective test for determining the factor of tenderness, as set forth in the Government's proposal (Government's Exhibit No. 1, Sec. 27.001, subsection (b)), was described. No other objective test for this factor was offered.

It was agreed that in peeled peaches absence of peel is a factor of quality. Pieces of peel are unsightly and have an unpleasant feel if taken into the mouth. All canners recognize this fact and do not intentionally pack peaches bearing pieces of peel. In most cases, peaches are peeled with a hot lye solution which is immediately washed off. This is very efficient and pieces of adhering peel are not very common. When present, the most casual examination reveals them and such pieces easily can be removed by hand trimming. Other methods of removing peel require a little more care to insure complete removal, but the amount of care required is not unreasonably great, so that it is commercially practicable to pack peaches completely free from peel. Except for some unpeeled packs, almost no cans with peel present had been encountered by the Department in the past several years out of the thousands of cans examined.

It was testified that peaches may be blemished with scab, hail injury, discoloration or other minor abnormalities such as bird pecks. Scab leaves a section of scar tissue on the peach which is hard and unsightly. Hail injury results in brown, unsightly spots. Discoloration is usually the result of bruises, frostbite or other undesirable conditions. In the opinion of many qualified witnesses, canned peaches are, for

practical canning purposes, free from blemishes if not more than  $\frac{1}{6}$  of the units in the container are blemished. Peaches are relatively large units and blemishes are not common so they can be readily sorted and trimmed to remove such blemishes. A tolerance of 20 percent would be sufficient, from the thousands of cans of peaches examined, to make due allowance for such small and not too apparent blemishes.

It was testified that a tolerance of 5 percent of crushed or broken units would be reasonable. Many containers carry less than 20 units. In a container of less than 20 units, 1 crushed or broken unit is as close to absolute freedom as reasonably can be required. If, however, the number of crushed or broken units is 20 percent, or more, experience would indicate that either they must have been added as such or that the peaches were canned by some method which crushed or broke more units than is usual in good commercial practice.

The changes in the standards of quality were traced since the first promulgation of quality standards under the McNary-Mapes Amendment. In 1931, a standard of quality for canned peaches was promulgated, and the minimum standard requirement for tender units was raised in 1932 from 80 percent to 90 percent, which is the present standard for quality. The present proposal (Government's Exhibit No. 1) suggests the abolishment of tolerance for units not tender and requires all units to meet the test for tenderness.

The requirements for uniformity of size under the McNary-Mapes Amendment, promulgated in 1931, were changed on two occasions, once in 1932 so that this quality factor was based on weight rather than on diameter, and the second change made in 1937 provided that the units are uniform sized when the weight of the largest unit in the can is not more than twice the weight of the smallest unit in the can. This requirement is now in effect under such amendment and is the requirement for this factor set forth in the present proposal (Government's Exhibit No. 1).

Except for the elimination of raggedness as a blemish in the present proposal (Government's Exhibit No. 1), the factor with reference to blemishes is substantially the same as in the McNary-Mapes Amendment.

The requirement with respect to untrimmed units, which was suggested in the proposal of the Government (Government's Exhibit No. 1) and supported by testimony, differs from the previous requirement under the McNary-Mapes Amendment in that the present suggestion separates the two quality factors, namely, excessively trimmed and broken units, and proposes that the tolerance for units so trimmed that their normal contour is destroyed be eliminated. This elimination was proposed because trimmed units are easily segregated and packed separately by the cannery. In addition, consumers objected to the presence of even one unit so trimmed as to destroy its normal contour.

Testimony was adduced that the expression "Below Standard in Quality" would best describe the condition of canned peaches which fall below a standard of quality and that this phrase should be qualified, showing in what respects such peaches fall below the standard, or if the product falls below the standard in several respects, the statement "Below Standard in Quality Good Food—Not High Grade" was recommended.

Evidence was adduced that freestone peaches are peeled by scalding and then slipping the skin by hand rather than by lye peeling.

The weight of the evidence adduced at the hearing by other interested parties was to the effect that the requirement in the proposal (Government's Exhibit No. 1) that no peel be present in standard canned peaches was unreasonably stringent, and that the tolerance of one square inch of peel per pound of net contents, which is the present require-

ment under the McNary-Mapes Amendment, is reasonable and capable of being complied with commercially.

It was recommended that the expression "normal shape" be substituted for the expression "normal contour." Witnesses at the hearing regarded the terms as synonymous.

It was suggested that peaches not of uniform size be labeled as below standard in quality because they consisted of "irregular pieces" rather than because they consisted of "mixed sizes" as proposed. This suggestion was made in connection with the suggestion that peaches ungraded for size may not be regarded as substandard in quality. Government witnesses testified that uniformity of size is a factor in the quality of peaches. Indeed, all witnesses concurred therein.

8. Pursuant to the rules of procedure, the presiding officer, therefore, makes this his report and suggests that the Secretary issue the regulation hereinafter set forth and make, on the basis of the substantial evidence of record at the hearing, the findings of fact herein contained as part of the order promulgating and making public such regulation.

#### SUGGESTED FINDINGS

1. Factors which go to make up quality in canned peaches are tenderness of the peach ingredient; size of units in the case of peach halves and quarters; uniformity of size of units in the cases of whole peaches, halves, and quarters; absence of peel in all forms of the peach unit except in the case of unpeeled peaches; freedom from blemishes; the shape of the units in the cases of whole peaches, halves, quarters, and slices; freedom from crushed or broken units (R. pp. 24-25, 80-81).

2. In canned peaches, the biting or chewing characteristic of the peach is an index of the quality factor, tenderness. This factor involves the maturity of the peach and the extent to which it has been cooked (R. p. 25).

3. Such tenderness is measurable objectively by the following method:

So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of  $1\frac{1}{8}$  inches inside diameter, with vertical sides; or rectangular in shape,  $\frac{3}{4}$  inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of  $\frac{3}{4}$  inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least  $\frac{1}{2}$  inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod  $\frac{3}{16}$  inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness (R. pp. 25-29, 81, Government's Exhibit No. 1).

4. Forms of units of the peach ingredient too small for such

testing or too soft for such trimming need not be tested for tenderness (R. p. 28).

5. The foregoing method outlined in Finding No. 3 is directly correlated with the consensus of consumer opinion of what constitutes tenderness in canned peaches (R. p. 29).

6. Size of units, as measured by the weight of the unit, is not a factor of quality in canned peaches except in the cases of halves and quarters (R. pp. 31, 81).

7. Canned peaches which are of standard quality have a minimum size for halves and quarters at the present time (R. pp. 31, 58-61, 81). Halves and quarters smaller than such minimum size are commonly packed as substandard peaches at the present time (R. pp. 31-32, 58-61, 81).

8. Halves and quarters have a minimum size of  $\frac{3}{4}$  ounce and  $\frac{1}{2}$  ounce, respectively (R. pp. 32, 81). These minima are less than the minima adopted by the packers of over 97 percent of the canned peaches produced in the United States (R. pp. 32, 81).

9. Such weights are determinable as follows: The unit is placed on a screen and the liquid is allowed to drain therefrom for two minutes. The unit is then weighed (R. pp. 32, 81-82).

10. Uniformity of size of units is not a factor of quality in canned peaches unless the units are whole, halves, or quarters (R. pp. 32-33, 81-82). Uniformity of size cannot be controlled under the best commercial practice in the cases of slices and dice (R. pp. 33, 81-82). Discrepancies in size are not objectionable to the consumers when the units are small, such as slices or dice (R. pp. 33, 81-82). Uniformity of size is obviously not a factor in the quality of the product when the units are mixed pieces of irregular size (R. pp. 33, 81-82).

11. Uniformity of size of units in the cases of whole, halves, or quarters is necessary in order to prevent variant numbers of units in servings of desserts and salads on the same table (R. pp. 33, 81-82).

12. Such units are of reasonable uniformity of size if the weight of the largest unit is not more than twice the weight of the smallest unit in the container (R. pp. 33-34, 68-69, 81-82, 87, 165-167, 173-174, 178-180). Weights of such units are determined in the same manner as weights for minimum size of units (R. pp. 34, 81-82).

13. Absence of peel is a factor of quality in canned peaches except in the case of peaches canned as unpeeled peaches (R. pp. 34, 62, 76, 82, 143-144, 167-170, 174).

14. Adhering peel ordinarily can be removed completely from the peach, but some peel is occasionally left in good commercial practice (R. pp. 35, 62, 63, 82, 107, 140, 151-153, 159-160, 167-170, 174-175). 1 square inch of peel per pound of net content is a reasonable maximum tolerance for peel present in the finished product (R. pp. 143, 151-153, 167-170, 174-175, 176).

15. Freedom from blemishes such as scab, hail injury, discoloration, or other abnormalities is a factor of quality in canned peaches (R. pp. 35, 82).

16. A tolerance for blemishes is necessary because of small blemishes not apparent in hand sorting as carried out under good commercial practice (R. pp. 36, 82). 20 percent blemished units is a reasonable tolerance (R. pp. 36, 82).

17. Normal contour or shape of the peach unit is a factor of quality in canned peaches if the units are whole, halves, quarters, or slices (R. pp. 36-67, 82, 144, 146, 147, 176).

18. When the units are trimmed, normal shape can be preserved (R. pp. 37, 82). It is possible for the canner to meet this quality factor by discarding all units so trimmed that their normal shape is not preserved (R. pp. 37, 82). Consumers uniformly object to unevenly trimmed units (R. pp. 37, 82).

19. Freedom from crushed or broken units is a factor of quality in canned peaches (R. pp. 37-38, 82). A crushed unit is a unit pressed so as to destroy its normal shape. A broken unit is a unit separated into two or more parts. Units which do not have normal contour because of ripeness and which do not show any crushing are not crushed or broken units (R. pp. 38, 62). Crushed and broken units are not deliberately packed as canned peaches which are of standard quality at the present time (R. pp. 38, 82). The concussion resulting from the application of the lid to the can at high speeds under great pressure sometimes breaks or crushes the topmost unit of well-filled containers in good commercial practice (R. pp. 39, 82). For this reason, a tolerance for crushed and broken units is necessary, and a tolerance of 5 percent for containers of more than 20 units or of 1 unit for containers of less than 20 units is reasonable (R. pp. 39, 82).

20. A canner employing good commercial practice can meet each of the foregoing factors of quality in canned peaches without difficulty (R. pp. 40, 82, 83).

21. Each factor of quality takes into consideration and makes due allowance for the differing characteristics of the several varieties of peaches. Some varieties can meet the various factors more easily than others, but all varieties can meet the foregoing factors of quality without difficulty under good commercial practice (R. pp. 41, 83-84).

22. Each of the factors hereinbefore referred to has been in effect since 1931 in the standards of quality for canned peaches promulgated by the Secretary of Agriculture pursuant to the McNary-Mapes Amendment to the Food and Drugs Act of 1906 (R. p. 41).

23. There has been no substantial change in the provision with respect to tenderness since the promulgation of such original standard in 1931, except that the tolerance for units not tender was reduced from 20 percent to 10 percent in 1932 (R. pp. 43, 44).

24. There is no substantial difference between the measure of tenderness as referred to herein and the present McNary-Mapes standard except that the tolerance of 10 percent of units not tender is eliminated (R. p. 44). Elimination of such tolerance is justified by present commercial practice (R. p. 44).

25. The objective method of determining tenderness has been the same throughout the history of such standards promulgated under the McNary-Mapes Amendment and is an accurate and reliable method for determining tenderness (R. p. 44).

26. There has been no change in the provisions of the standards promulgated under the McNary-Mapes Amendment for minimum size of units, except in 1932 when the minimum size for halves was reduced from  $\frac{3}{4}$  ounce to  $\frac{1}{2}$  ounce.

27. Small slices occur inadvertently, and it is impossible to eliminate them under good commercial practice (R. p. 33). Very small whole peaches are a highly desirable quality product (R. p. 31).  $\frac{3}{4}$  ounce and  $\frac{1}{2}$  ounce more truly represent the respective minimum sizes of normal sized halves and quarters than  $\frac{3}{4}$  ounce and  $\frac{1}{2}$  ounce (R. p. 46).

28. There have been no changes in the standards promulgated under the McNary-Mapes Amendment with respect to uniformity of size of units except that in 1932 such uniformity was placed upon a weight rather than upon a size basis, and except that in 1937 the degree of uniformity was reduced from a variation of 80 percent to 100 percent (R. pp. 47-48).

29. No variations from the present McNary-Mapes requirement with respect to uniformity is desirable (R. p. 48).

30. There have been no changes from the original standard promulgated under the McNary-Mapes Amendment with respect to freedom from blemishes (R. pp. 48-49).

31. It is not desirable to change the present McNary-Mapes

standard with respect to freedom from blemishes, except to eliminate raggedness as a blemish (R. p. 49). Raggedness is characteristic of some varieties of peaches (R. pp. 49, 67-68).

32. There have been no changes in the original requirement of the McNary-Mapes standards with respect to the normal shape of the peach units (R. pp. 49-50).

33. No changes in the present McNary-Mapes standard are desirable except the elimination of the tolerance for units not of normal shape (R. pp. 50, 163-165, 176). The elimination of the tolerance is reasonable because canners under good commercial practice can and do remove all excessively trimmed units prior to canning (R. pp. 50, 72-74).

34. There have been no changes in the original McNary-Mapes standard with respect to broken units except that the tolerance was reduced in 1932 from 20 percent to 10 percent of broken units and a proviso added to permit of one crushed unit resulting from the application of the lid (R. p. 51).

35. That all of the foregoing findings of fact are reasonable and will promote honesty and fair dealing in the interest of consumer (R. p. 54).

36. It is reasonable and it will promote honesty and fair dealing in the interest of the consumer to have a simple and understandable statement of substandard quality placed on the label. "Below Standard in Quality" qualified by an explanation wherein the product falls below standard in quality is such a statement (R. pp. 56, 99-100, 102, 188-190, 192, 195, 199, 202-204). If the peaches are not tender, the qualifying statement "Not Tender" furnishes an accurate explanation of the reason the product is below standard. Likewise, the qualifying statement "Small Halves", or "Small Quarters", if under minimum size; "Mixed Sizes", if not of uniform size; "Not Well Peeled", if over the tolerance for peels; "Blemished", if over the tolerance for blemishes; "Unevenly Trimmed", if trimmed to destroy normal shape; "Partly Crushed or Broken", if over the tolerance for crushed or broken units (R. pp. 56, 103, 148, 149, 154, 189-190, 199).

37. It is reasonable and it will promote honesty and fair dealing in the interest of the consumer to have such statement immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Peaches", together with words and statements required or authorized to appear with such name by the definition and standard of identity for canned peaches (R. pp. 56-57).

38. Such label requirements for peaches of substandard quality would not be practicable under good commercial practices in instances such as where the product fell below the standard in several respects (R. p. 57).

39. In such event, the statement "Below Standard in Quality Good Food—Not High Grade" would be reasonable, would be informative to the consumer, and would promote honesty and fair dealing in the interest of the consumer (R. pp. 57, 188-190, 202-204).

40. It is reasonable and it would promote honesty and fair dealing in the interest of the consumer to have such statement printed in two lines of Cheltenham bold condensed caps. The words "Below Standard in Quality" to constitute the first line, and the second to immediately follow. If the quantity of the contents of the container is less than 1 pound, such type of the first line shall be 12-point, and of the second, 8-point. If such quantity is 1 pound or more, such type of the first line shall be 14-point, and of the second, 10-point. Such statement is to be enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is to be on a strongly contrasting, uniform background, and is to be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so

conspicuously as to be easily seen under customary conditions of purchase (R. pp. 57-58, 100-102).

41. The wording of this statement differs from the statement required under the present McNary-Mapes standard only in the elimination of the explanation "U. S.", and a substitution of "Below Standard in Quality" for "Below Standard" (R. p. 96). The explanation "U. S." on labels has been found to be misleading to consumers (R. pp. 97-98). The foregoing findings for manner and form of the label statement differ from the present McNary-Mapes requirements with respect to the elimination of certain technical requirements (R. pp. 95-96).

#### SUGGESTED CONCLUSION IN THE FORM OF A REGULATION

Upon the basis of the foregoing findings of fact, the following reasonable standard of quality and form and manner of label statement of substandard quality for the food commonly known as canned peaches is hereby suggested to be promulgated as a regulation:

##### § 27.001 Canned peaches—Quality; label statement of substandard quality.

(a) The standard of quality for canned peaches is as follows:

(1) All units tested in accordance with the method prescribed in subsection (b) are pierced by a weight of not more than 300 grams;

(2) In the cases of halves and quarters, the weight of each unit is not less than  $\frac{3}{5}$  ounce and  $\frac{3}{10}$  ounce, respectively;

(3) In the cases of whole peaches, halves, and quarters, the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein;

(4) Except in the case of unpeeled peaches, there is present in the finished canned peaches not more than 1 square inch of peel per each 1 pound of net contents;

(5) Not more than 20 percent of the units in the container are blemished with scab, hail injury, discoloration, or other abnormalities;

(6) In the cases of whole peaches, halves, quarters, and slices, all units are untrimmed, or are so trimmed as to preserve normal shape; and

(7) Not more than 5 percent of the units in a container of 20 or more units, and not more than one unit in a container of less than 20 units, is crushed or broken. (A unit which has lost its normal contour because of ripeness and which bears no mark of crushing shall not be considered to be crushed or broken.)

(b) Canned peaches shall be tested by the following method to determine whether or not they meet the requirements of clause (1) of subsection (a):

So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of  $1\frac{1}{8}$  inches inside diameter, with vertical sides; or rectangular in shape,  $\frac{3}{4}$  inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of  $\frac{3}{4}$  inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least  $\frac{1}{2}$  inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod  $\frac{5}{32}$  inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface

to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(e) If the quality of canned peaches falls below the standard prescribed by subsection (a), the label [unless it bears the statement specified in subsection (d)] shall bear the statement "Below Standard in Quality . . . . .", the blank to be filled in with the word or words specified after the corresponding number of each clause of subsection (a) which such canned peaches fail to meet, as follows: (1) "Not tender"; (2) "Small halves", or "Small quarters", as the case may be; (3) "Mixed sizes"; (4) "Not well peeled"; (5) "Blemished"; (6) "Unevenly trimmed"; (7) "Partly crushed or broken". Such statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Peaches" and the words and statements required or authorized to appear with such name by Section 27.000 (b).

(d) In lieu of the statement or statements specified in subsection (c), the label may bear the statement "Below Standard in Quality Good Food—Not High Grade", printed in two lines of Cheltenham bold condensed caps. The words "Below Standard in Quality" shall constitute the first line, and the second shall immediately follow. If the quantity of the contents of the container is less than 1 pound, the type of the first line shall be 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line shall be 14-point, and of the second, 10-point. Such statement shall be enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, shall be on a strongly contrasting, uniform background, and shall be so placed as to be easily seen when the name "Peaches" or any pictorial representation of a peach is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

#### Hearings on Preserves, Jellies, and Fruit Butters

The public hearings to gather information on the basis of which standards of identity will be formulated for most of the fruit preserves, jam, jellies, and butters being prepared commercially, began in Washington last week and continued through this week. In the INFORMATION LETTER for August 12, 1939, appeared the proposed definitions and standards of identity.

Evidence regarding the amounts of fruit and sugar, the kinds of sugars, added pectin and acid, label requirements, etc., was introduced by both government and industry experts.

Previous to the hearing, there was some uncertainty as to whether cranberry sauce was to be included in the hearing with the intention of establishing a definition and standard of identity for that product. In the proposed standards, cranberries had been listed as a fruit used in the making of preserves and jellies. However, Dr. J. W. Sale, testifying for the Food and Drug Administration, made the specific state-

ment that the proposed standards for fruit preserves and jellies were not intended to apply to cranberry sauce.

Cranberries were referred to in the proposal, he said, solely because of their possible use in the making of cranberry preserves and jellies as such, and no reference to cranberry sauce was intended. Dr. Sale further stated that cranberry sauce, as commercially prepared, is a product entirely different from the preserves and jellies covered by the proposal, as it has a soluble solid content of only approximately 40 per cent.

The presiding officer who conducted the hearing also confirmed Dr. Sale's statement that cranberry sauce was not covered. He said there had been considerable confusion on this question and that he wished to make it quite clear that there is no intention at this time of establishing a definition and standard of identity for cranberry sauce.

#### Grade Standards for Frozen Lima Beans

Tentative grade standards for frozen lima beans were announced this week, and will be submitted to the trade and consumers for comment and criticism. The tentative grades set up include fancy, choice, standard, and off-grade qualities of the frozen product.

#### District Offices of Commerce Bureau

To enable business to utilize facilities of the Bureau of Foreign and Domestic Commerce, 33 district and cooperative offices are maintained in the principal commercial centers of the country. These district and cooperative offices receive regularly and promptly from the main office at Washington, information regarding foreign regulations and restrictions affecting international trade, as well as other general information that would be of interest to those engaged in foreign trade. The district offices also maintain a file of the Bureau's publications.

Persons seeking information on foreign trade regulations could frequently obtain this information more quickly by consulting the nearest district or cooperative office of the Bureau than by writing directly to Washington.

The list of these offices is printed below:

#### DISTRICT OFFICES

Atlanta, Ga.	325 New Post Office Bldg.
Birmingham, Ala.	242 Federal Bldg.
Boston, Mass.	1800 Customhouse
Buffalo, N. Y.	242 Federal Bldg.
Charleston, S. C.	Chamber of Commerce Bldg.
Chicago, Ill.	357 United States Courthouse
Cleveland, Ohio	400 Union Commerce Bldg.
Dallas, Texas	Chamber of Commerce Bldg.
Detroit, Mich.	371 New Federal Bldg.
Houston, Texas	Federal Office Bldg.
Jacksonville, Fla.	Federal Bldg.
Kansas City, Mo.	Chamber of Commerce
Los Angeles, Calif.	1540 U. S. Post Office and Courthouse
Louisville, Ky.	654 Federal Bldg.
Memphis, Tenn.	229 Federal Bldg.
Minneapolis, Minn.	201 Federal Office Bldg.
New Orleans, La.	408 Maritime Bldg.
New York, N. Y.	602 Federal Office Bldg., Church and Vesey Sts.
Norfolk, Va.	409 Federal Bldg.
Philadelphia, Pa.	1510 Chestnut St.
Pittsburgh, Pa.	1013 New Federal Bldg.
Portland, Ore.	215 New Post Office Bldg.
St. Louis, Mo.	635 New Federal Bldg.

San Francisco, Calif. .... 311 Customhouse  
Seattle, Wash. .... 809 Federal Office Bldg.

## COOPERATIVE OFFICES

Cincinnati, Ohio	Chamber of Commerce
Denver, Colo.	201 New Customhouse
Indianapolis, Ind.	Chamber of Commerce Bldg.
Milwaukee, Wis.	Milwaukee Association of Commerce
Mobile, Ala.	U. S. Courthouse and Customhouse Bldg.
Rochester, N. Y.	Chamber of Commerce
Savannah, Ga.	36 Bay St., East
Wilmington, Del.	319 New Federal Bldg.

## Time Extended on Processing Tax Refund Claims

An extension of the time within which certain types of claims may be filed for the refund of processing and floor stocks taxes paid under the Agricultural Adjustment Act was authorized by Congress at its recent session.

Only two types of claims of importance to canners are affected by this extension. The first of these is the claims that canners may have for the refund of floor stocks taxes that they actually paid to the government. At the time the processing taxes on different commodities originally became effective, the Agricultural Adjustment Act levied a similar floor stocks tax upon stocks of the commodities on hand on the effective date of the processing tax. Consequently, some canners paid floor stocks taxes on sugar and similar commodities. The Revenue Act of 1936 (Title VII) provided that claims for the refund of these floor stocks taxes must be filed before July 1, 1937. The Revenue Act of 1939 (Section 405), however, extends the date within which these claims may be filed to January 1, 1940.

The second type of claim of importance to canners relates to claims for payments with respect to inventories held on January 6, 1936. When the processing taxes were declared unconstitutional on January 6, 1936, many persons held inventories of articles upon which a processing tax had been paid. As it was necessary to sell these articles in competition with similar articles on which no tax was paid, the holders of these inventories were placed at a competitive disadvantage. To meet this situation, the Revenue Act of 1936 (Section 602) provided that persons holding such inventories on January 6 could file claims with the government for repayment of the processing taxes, even though the claimant was not the person who paid the taxes to the government. These claims had to be filed on or before January 1, 1937.

A rider to the Social Security Amendments, adopted by Congress on August 10, 1939, extends the time within which these claims may be filed to January 1, 1940. As the claims may be made only with respect to inventories that were processed "wholly or in chief value" from a tax-paid commodity, refunds of this type are of importance to canners only with respect to stocks of refined sugar that they may have held on January 6, 1936.

In order to obtain refunds of either type, the canner must demonstrate that he actually bore the burden of the processing tax and did not pass it on to his customers through increased prices. The entire subject of processing tax refunds was discussed in the INFORMATION LETTER of October 10, 1936, page 5069.

## Pennsylvania Canners Meet November 16-17

Annual convention of the Pennsylvania Canners Association will be held at the Yorktowne Hotel, York, Pa., on November 16 and 17.

## Fruit and Vegetable Market Competition

Carlot Shipments as reported by the Bureau of Agricultural Economics, Department of Agriculture

VEGETABLES	Week ending—				Season total to—
	Sept. 16, 1938	Sept. 16, 1939	Sept. 9, 1939	Sept. 16, 1938	
Beans, snap and lima	9	10	3	8,134	6,563
Tomatoes	893	825	884	30,802	24,130
Green peas	160	108	144	5,611	6,511
Spinach	30	42	37	6,627	6,390
Others:					
Domestic, competing directly	2,383	2,402	2,368	99,236	95,182
Imports, competing indirectly	101	66	34	198	143
Fruits					
Citrus, domestic	2,433	1,768	1,670	165,890	175,978
Imports	54	31	30	183	85
Others, domestic	4,427	4,539	4,375	46,240	45,545

## Unsold Stocks of Canned Salmon

Unsold stocks of canned salmon on September 15, 1939, totaled 2,644,417 actual cases, as compared with 3,898,219 cases on September 15, 1938, according to statistics compiled by the Association of Pacific Fisheries. The figures for September 15, 1939, are based on reports from 80 companies producing an estimated 99 per cent of the 1939 pack. The figures for September 15, 1938, are based on reports from 78 companies producing 98 per cent of the 1938 pack. The Association called attention to the fact that both in 1938 and 1939 the pack of some individual companies, as well as the total pack, were not yet definitely known, as some packing was still going on in certain localities.

The following table provides statistics of canned salmon stocks by grades or varieties and by can sizes for September 15, 1939, with totals for that date compared with September 15, 1938:

GRADES OR VARIETIES	Tails (1 pound)	Flats (1 pound)	Halves (8 dozen)	Total	
				Sept. 15, 1939	Sept. 15, 1938
Chinooks or Kings:	Cases	Cases	Cases	Cases	Cases
Fancy Red	15,319	6,561	23,604	45,484	76,665
Standard	831	6,012	10,808	17,651	18,816
Pale	354	213	531	1,098	2,496
White	179	33	228	440	1,517
Puget Sound Sockeyes		8,392	25,342	33,934	73,559
Alaska Reds	1,450,524	23,029	122,524	1,596,077	1,954,901
Coho, Silvers	52,603	5,018	18,798	76,410	134,799
Pinks	680,351	7,880	33,069	721,297	1,363,459
Chums	146,777		3,355	150,132	268,860
Bluebacks			894	894	1,099
Steelheads		484	507	991	1,139
Totals	2,346,038	57,822	230,657	2,644,417	3,898,219

## Pitted Red Cherry Pack in 1939

The pitted red cherry pack in 1939 amounted to 3,137,545 actual cases, compared with 1,694,813 cases in 1938, and 2,471,982 cases in 1937, according to figures compiled by the Association's Division of Statistics. The compilation is based on reports from all but two canners, whose packs were estimated at 5,500 cases of No. 10's.

The following tables show the packs by regions and can sizes during the past three years:

Region	No. 2 1939	No. 10 Cases	Misc. Cases	Total Cases
New York and Pennsylvania	468,181	244,396	54,022	766,599
Michigan, Wisconsin and Ohio	1,476,378	591,894	34,529	2,102,801
Western *	57,705	195,719	16,721	268,145
Total	2,002,264	1,030,009	105,272	3,137,545
<hr/>				
1938				
New York and Pennsylvania	205,180	118,632	22,565	346,583
Michigan, Wisconsin and Ohio	561,260	412,184	8,508	982,048
Western *	53,809	297,218	15,155	366,182
Total	820,251	828,234	46,318	1,694,813
<hr/>				
1937				
New York and Pennsylvania	203,151	303,759	54,506	561,416
Michigan, Wisconsin and Ohio	735,660	824,787	57,373	1,617,820
Western *	56,079	194,097	42,570	292,746
Total	994,890	1,322,643	154,449	2,471,982

\* Includes Colorado, Idaho, Nebraska, Montana, Washington, Oregon, and Utah.

### Venezuela Promulgates Metric Measures Law

The use of the metric system exclusively in commercial documents, advertisements, etc., as well as in the indication of weights or measures on containers or labels of packaged foods and beverages, is prescribed by a new Venezuelan law of June 27, 1939, and presumably effective from that date.

### Springfield, Ill., Selected for Food Stamp Plan

Selection of Springfield, Ill., as the seventh city in which the food order stamp plan for distributing surpluses through normal channels of trade will be put into operation, was announced September 16.

### Rotenone-Bearing Root Imports Increase

Of interest to pea growers and canners using rotenone-bearing dusts and sprays in control of pea aphid and other insect pests, is the following statement from the Commerce Department regarding imports:

In the first half of the current year imports of derris, cube and timbo roots, both in the natural form and ground, exceeded 3,000,000 pounds which was approximately the same as receipts during the whole of 1938 and compares with imports of 2,400,000 pounds in the calendar year 1937, preliminary statistics show.

Imports of derris root in the natural or crude form aggregated 1,328,500 pounds in the first half of the current year—an amount almost double the quantity received during the whole of 1938—and originated largely in British Malaya, with smaller quantities from the Philippine Islands, the Netherlands Indies, and French Indo-China.

Receipts of cube and timbo or barbasco root in the crude form amounted to 1,089,000 pounds in the current six months period compared with 591,000 pounds in the whole of 1938. In both periods Peru supplied between 80 and 90 per cent of the total with the balance coming from Brazil and Venezuela.

Imports of rotenone-bearing roots in the ground form, which is dutiable upon entry into the United States, amounted to 704,500 pounds in the first six months of the current year, compared with 1,736,000 pounds during the calendar year

1938. During both periods, the large bulk consisted of ground timbo root supplied by Brazil, according to the Chemical Division.

### Nutrient Solutions in Transplantings

A demonstration of the striking effects obtained by the use of a "starter" solution in transplanting certain vegetable crops to the field has resulted from experiments made on the New York State agricultural experiment station canning crops farm in which several formulas were compared. A combination of Ammo-Phos 11-48 and nitrate of potash gave the best results.

The solution used in the experiment was made up at the rate of 9 pounds of Ammo-Phos 11-48 and 4½ pounds of nitrate of potash in 363 gallons of water, which was sufficient to supply 1 pint of the solution to each plant on an acre of land. At this rate the cost of the fertilizer ingredients was only 48 cents. In tests this year the concentration of the solution was doubled and quadrupled, while the amount of water used per plant was reduced to one-half pint and one-fourth pint per plant, respectively, and equally good results were obtained.

### Hybrid Sweet Corns Rapidly Gain Ground

The testing of yellow hybrid sweet corns as they are introduced by the seed trade is assuming increasing importance in the work of the vegetable crops specialists at the New York State experiment station. At present it is estimated that 80 per cent of all of the acreage planted to yellow sweet corn is now devoted to hybrid varieties and that 70 per cent of the canning acreage of yellow sweet corn is planted to Golden Cross alone, one of the outstanding hybrids.

A new bulletin just published by the station describes forty-eight of these hybrids with information on the parentage of the hybrid, the time it was made, when it was released for trial and introduced to the trade, and the names of the persons and firms responsible for its development and introduction. In addition, it also reports on yield trials with many of the hybrids and of tests of the most promising varieties for canning and freezing. A copy of the bulletin may be obtained upon request to the experiment station at Geneva.

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